

# **Exhibit 2**

**April 7, 2009**

**Dan McIntosh**

## **Deposition Transcript Excerpts**

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE EASTERN DISTRICT OF WISCONSIN  
3 GREEN BAY DIVISION

4 -----  
5 APPLETON PAPERS, INC., and  
6 NCR CORPORATION,

7 Plaintiffs,

8 vs.

Case No. 2:08-CV-00016-WCG

9 GEORGE A. WHITING PAPER COMPANY, et al.,  
10 Defendants.  
11 -----

12  
13  
14  
15 Deposition of DAN McINTOSH

16 Tuesday, April 7th, 2009

17 9:02 a.m.

18 at

19 THE COPPERLEAF HOTEL  
20 300 West College Avenue  
21 Appleton, Wisconsin  
22  
23  
24

25 Reported by Rosanne E. Pezze, RPR/CRR

1                   If you would turn to page 7 of the  
2                   report, NCR-FOX-400672. In the middle of the page  
3                   there's a paragraph that begins with the word  
4                   "Meetings were held" or the words "Meetings were  
5                   held." Do you see that?

6       A       Yes.

7       Q       "Meetings were held this month with both Appleton and  
8                   Mead on the subject of NCR specifications and  
9                   deviations."

10                  Do you have, as you sit here today,  
11                  any understanding in terms of what the specifications  
12                  and deviations were that were being discussed at this  
13                  meeting?

14       A       Not that were being discussed at that meeting.

15       Q       Okay. Do you have any understanding in terms of  
16                  deviations that existed at Appleton and Mead with  
17                  regard to the NCR paper at this point in time?

18       A       Not specifically.

19       Q       How about generally?

20       A       Generally, there were deviations that were granted to  
21                  the mills from time to time because of their  
22                  inability to balance one offer to the other, or there  
23                  were conflicting objectives from their standpoint.  
24                  They could meet one but not the other, and so we had  
25                  to adjust the specifications accordingly.

1                   And sometimes the deviation was  
2           temporary, and then the ranges may have been adjusted  
3           or the formulation adjusted to enable them to meet  
4           the specs.

5   Q     But all of that had to be done with NCR's approval?

6   A     Correct.

7   Q     And again, the specifications, these only dealt with  
8           NCR paper, the manufacture of NCR carbonless copy  
9           paper?

10  A     Correct.

11  Q     Did Appleton or Mead manufacture anything else for  
12           NCR other than carbonless copy paper?

13  A     Appleton produced some thermal paper for NCR as well.

14                   (Deposition Exhibit No. 449 marked for  
15           identification.)

16  BY MR. RABBINO:

17  Q     Exhibit 449 is the August 1966 progress report for  
18           the NCR Paper and Supply Products Technical Services  
19           division. Begins on NCR-FOX-445580 and goes to  
20           NCR-FOX-445595, and this was one of the reports you'd  
21           previously reviewed with counsel.

22                   If you'd turn to the very first page  
23           of text, NCR-FOX-445581. The second paragraph reads,  
24           "During August, much effort was spent in compiling  
25           information for a discussion with Appleton Coated

1 versions, which were non-Aroclor.

2 BY MR. RABBINO:

3 Q But it did include Aroclor 1242 at one point?

4 A Correct.

5 Q The last sentence reads, "This gave NCR total control  
6 authority over the most important material in the  
7 entire system." Do you agree with that?

8 A Well, from Tom's perspective, that's the way he  
9 looked at it, and probably was valid from his  
10 viewpoint.

11 Q Okay. If we turn to the next page -- well, let me  
12 ask you this, though.

13 To the extent that NCR controlled the  
14 production of the emulsion and the distribution of  
15 the emulsion, carbonless copy paper couldn't be made  
16 without the emulsion; is that correct?

17 A Correct.

18 Q So if NCR controlled it, then they did control  
19 certainly one of the more important parts of the  
20 process?

21 A That's correct.

22 Q Turning to the next page. That paragraph reads, "NCR  
23 very carefully and thoroughly set down strict  
24 specifications and test methods for all ingredients  
25 used in the production of the paper."

1 Do you see that?

2 A Yes.

3 Q Do you agree with that statement?

4 A Well, yes, but there were a lot of changes over time  
5 to those, so --

6 Q Well, that's true. But did NCR have --

7 A There was a fairly complete set of specifications and  
8 test methods, but we were always finding the mills  
9 didn't particularly strictly follow those, so we had  
10 to --

11 Q Well, the paragraph later reads, "No formulation or  
12 processing changes were permitted without NCR  
13 approval." Do you agree with that statement?

14 A That would have been the policy of NCR, yes.

15 Q Okay. If you'd turn to page 50 -- well, actually,  
16 turn to page 49 first. In the first full paragraph  
17 on the page, it deals with speaking of a time frame  
18 in 1967 that Appleton completed the installation of  
19 the first tandem coater. Do you see that?

20 A Yes.

21 Q Do you recall Appleton doing that in 1967?

22 A Yes.

23 Q And then later at the bottom, soon after the  
24 installation of the first tandem coater, it was  
25 apparent that another tandem machine would be